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EXAMINER

BOYCE, ANDRE D

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/740,502

Applicant(s)

BOONE, BARRY

Examiner

Andre Boyce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 and 13-94 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-94 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/4/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 4, 2005 has been entered.
2. Claims 1, 22, 37, 49, 50, 53, 63, 71-73, 83, and 92-94 have been amended. Claims 1-11 and 13-94 are pending.
3. The previously pending rejections to claims 22-36 under 35 U.S.C. 112, second paragraph have been withdrawn.

#### ***Claim Rejections - 35 USC § 101***

4. Claims 1-3, 13-22, 24-29, 37-42, 48, 71, 72, and 83-91 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter.

For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case the independent claims 1, 22, 37, 71, 72, and 83 only recite abstract ideas. The recited steps of receiving a request, retrieving a set of predefined feedback comments, identifying a comment, communicating the comment, etc., does not involve, use, or advance the technological arts (i.e., computer, processor, electronically, etc.). Claims 2, 3, 13-21, 24-29, 38-42, 48, and 84-91 are rejected under the same rationale.

As to technological arts recited in the preamble, *mere recitation in the preamble* (i.e., intended or field of use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps *does not confer statutory subject matter to an otherwise abstract idea unless* there is positive recitation in the claim as a whole to breathe life and meaning into the preamble.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case the claimed invention generates and communicates a comment, thereby producing a useful,

concrete, and tangible result, but not within the technological arts as explained above.

***Claim Rejections - 35 USC § 103***

5. Claims 1-11, 17, 37-50, 53, and 57-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuerst (USPN 6,189,029), in view of Falk et al (US 2001/0037206).

As per claim 1, Fuerst discloses a method of operating an online feedback forum (online customer feedback, column 2, lines 63-65) comprising: receiving a request from a first user to leave feedback about a second user (customer requests to leave feedback about a company's product, column 2, lines 63-67); generating, independent of the first and second users (i.e., the customer service workgroup, which is independent of the company product, since the first user is not leaving feedback associated directly with the customer service workgroup, column 2, lines 63-67), a set of predefined feedback comments to be displayed to the user (i.e., scaled response, wherein the answer is selected from among a plurality of options, column 6, lines 38-41), each predefined feedback comment of the set of predefined feedback comments being associated with an indicator (survey tool assigns each question a unique question identification number, QID, column 5, lines 38-40); identifying a predefined feedback comment from the set of predefined feedback comments as having been selected by the first user (i.e., upon receipt of the web page the user may answer the questions, column 7, lines 45-46); and storing an

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indicator associated with the predefined feedback comment in a data structure associated with the second user (results and the QID are stored in table 600, column 7, lines 46-48).

Fuerst does not explicitly disclose the set of predefined feedback comments relate to an online purchasing transaction, which is associated with first and second users. Falk et al disclose point of sale (POS) 105 including on-line purchases (§ 0022), wherein the Falk system generates questions and receives feedback related to the purchase (figure 2). Further Falk et al discloses generating customized questionnaires automatically (§ 0042). Both Fuerst and Falk et al are concerned with collecting feedback from users in an on-line environment, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include feedback comments that relate to an online purchasing transaction in Fuerst, as seen Falk et al, thereby providing effective feedback to the customer service work group in Fuerst, who is interested in feedback on the company's products (see Fuerst column 2, lines 63-67).

As per claim 2, Fuerst discloses retrieving the predefined feedback comments from storage based upon the associated indicator responsive to a request received from a requestor (survey creator obtains results via group ID, including the QID, column 7, lines 65-67).

As per claim 3, Fuerst discloses communicating predefined feedback comments to the requestor (i.e., creator, column 8, lines 4-6).

As per claims 4, 30, 43, and 57, Fuerst discloses the request from the first user is received at a server machine via a communications network (request by user computer 120 for retrieval of the web page survey is transmitted to computer 130, including server 174, column 7, lines 31-38).

As per claims 5, 31, 44, and 58, Fuerst discloses the generating of the set of predefined feedback comments includes generating a markup language document to display the set of predefined feedback comments (column 4, lines 22-25).

As per claims 6, 32, 45, and 59, Fuerst discloses the markup language documents is to display the set of predefined feedback comments as a menu (i.e., comments selected from group).

As per claims 7, 33, 46, and 60, Fuerst discloses the menu comprises any one of a group of menus including a drop-down menu, a radio-button menu (radio type question/answer, column 6, lines 33-35) and a check-box menu.

As per claims 8, 34, 47, and 61, Fuerst discloses said identifying of the predefined feedback comment includes receiving a communication from a client machine (user computer 120) at a server machine (server 174 in machine 130, column 4, lines 46-50) responsive to a selection of the predefined feedback comment utilizing a markup language document .

As per claims 9, 35, 48, and 62, Fuerst discloses said communicating of the predefined feedback comment includes transmitting the predefined feedback comment from a server machine over a communications network to a client machine

of the requestor (creator computer 130 receives comments/answers across network communications link 106, column 7, lines 31-36).

As per claims 10, 36, 49, and 70, Fuerst discloses said communicating of the predefined feedback comment includes generating a markup language document including the predefined feedback comment at a server machine and transmitting the markup language document to the requestor via a communications network (creator computer 130 receives and processes HTTP requests, column 7, lines 35-37).

As per claim 11, Fuerst discloses including receiving a request from a requestor to view feedback associated with the second user, and wherein said retrieving the predefined feedback comment is in response to a request by a requestor to view feedback associated with the second user (customer service group getting customer feedback on a certain product, column 2, lines 63-65).

As per claim 17, Fuerst discloses the set of predefined feedback comments is distributed among several lists, a first list comprising negative comments, a second list comprising neutral comments, and the third list comprising positive comments (i.e., disagree, neutral, agree, column 6, lines 38-41).

As per claim 37, Fuerst discloses a method of operating an online feedback forum (online customer feedback, column 2, lines 63-65) comprising: receiving a request from a first user to leave feedback about a second user (customer requests to leave feedback about a company's product, column 2, lines 63-67); determining, independent of the first and second users (i.e., the customer service workgroup, which is independent of the company product, since the first user is not leaving



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feedback associated directly with the customer service workgroup, column 2, lines 63-67), whether to communicate to the first user a prompt to enter a freeform feedback comment or to communicate a set of predefined feedback comments based on information about either the first or second user (i.e., creator determines user population and questions to be provided based upon the user population, column 7, lines 21-24); retrieving a set of predefined feedback comments and communicating the set of predefined feedback comments to the first user (i.e., scaled response, wherein the answer is selected from among a plurality of options, column 6, lines 38-41); identifying a predefined feedback comment from the set of predefined feedback comments selected by the first user, (i.e., upon receipt of the web page the user may answer the questions and the results are stored in table 600, column 7, lines 45-48); communicating the selected predefined feedback comment to a requesting user (survey creator obtains results via group ID, column 7, lines 65-67).

Fuerst does not explicitly disclose the selected predefined feedback comment is related to an online purchasing transaction, which occurred between the first and second users. Falk et al disclose point of sale (POS) 105 including on-line purchases (§ 0022), wherein the Falk system generates questions and receives feedback related to the purchase (figure 2). Further Falk et al discloses generating customized questionnaires automatically (§ 0042). Both Fuerst and Falk et al are concerned with collecting feedback from users in an on-line environment, therefore it would have been obvious to one having ordinary skill in the art at the time the

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invention was made to include feedback comments that relate to an online purchasing transaction in Fuerst, as seen Falk et al, thereby providing effective feedback to the customer service work group in Fuerst, who is interested in feedback on the company's products (see Fuerst column 2, lines 63-67).

As per claim 38, Fuerst discloses said determining whether to communicate to the first user a prompt to enter a freeform feedback comment (i.e., input/short answer text response, column 6, lines 35-38) or to communicate a set of predefined feedback comments (i.e., scaled responses), the information about either the first or second user includes the national site through which the first or second user is registered (web site address) .

As per claim 39, Fuerst discloses said determining whether to communicate to the first user a prompt to enter a freeform feedback comment (i.e., input/short answer text response, column 6, lines 35-38) or to communicate a set of predefined feedback comments (i.e., scaled responses), the information about either the first or second user includes the domicile or residence of the first or second user (user country or city of origin for flight information, column 10, lines 25-28).

As per claims 40-42, neither Fuerst nor Faulk et al explicitly disclose choosing to display the set of predefined feedback comments if the information about either the first or second user indicates an association with a predefined group of states, where the predefined group of states is states identified as having strict laws relating to published content, and strict slander laws. However, it is old and well known, based upon both common and statutory law, that states may be recognized as having strict

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publishing and/or slander laws. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include particular comments based upon the user's associated state in Fuerst, thereby making the system more flexible in determining comments based upon user information.

Claims 50 and 53 are both rejected based upon the rejection of claims (1 and 2), since they are the machine readable and system (i.e., e-commerce facility) claims, corresponding to the method claims. Further, Fuerst discloses users able to obtain airline schedule and fare information by accessing the airline Web page (i.e., plurality of users on an e-commerce facility).

Claims 63-69 are rejected based upon the rejections of claims 53, 53, and 58-62, respectively, since they are the machine readable claims corresponding to the e-commerce facility claims.

Claims 71 and 72 are rejected based upon the same rationale as the rejection of claim 1.

6. Claims 13 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuerst in view of Falk et al, as applied to claims 1 and 53 above, in further view of Harrington et al (USPN 6,161,099).

As per claims 13 and 54, Fuerst does not disclose the online transaction is facilitated by an auction. Harrington et al disclose an auctioneer provided via a web site (figure 1) and a verification page 50, including a list of questions that must be answered (i.e., survey, column 8, lines 44-50). Both Fuerst and Harrington disclose

interactive websites, including surveying users, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the online surveying in Fuerst facilitated by an auction, as seen in Harrington, thereby increasing the robustness and flexibility of the Fuerst system.

7. Claims 14-16, 18-25, 27-36, 51, 52, 55, 56, and 73-94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuerst in view of Falk et al, as applied to claims 1, 50, and 53 above, in further view of Bayer et al (USPN 6,311,190).

As per claims 14-16, Fuerst does not disclose generating a set of predefined feedback responses to be displayed to the second user, the predefined feedback responses available in the set of predefined responses based upon the content of the predefined feedback comment, each predefined feedback response of the set of predefined feedback responses associated with a response indicator; detecting selection of a predefined feedback response by the second user from the set of predefined responses; storing the response indicator associated with the predefined response in a data structure associated with the first user; retrieving the predefined feedback response from storage responsive to a second request received from a second requestor, and communicating the predefined feedback response to the second requestor.

Bayer et al discloses the network server 12 validating the answers of the incoming registration data, wherein the network server will send an error message (i.e., response) if the answers (i.e., comments) are not valid. Further, each

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answered response is added to a new record of the registration data table, including the language of the user, wherein an e-mail confirmation message (i.e., response) is sent (column 30, lines 16-42). Both Fuerst and Bayer et al are concerned with surveying via the internet, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include responses to the comments in Fuerst, as seen in Bayer, making the Fuerst system more flexible and robust, by allowing communication between users.

As per claims 18 and 21, Fuerst does not disclose the language in which the predefined feedback comment is communicated to the requestor is based on information associated with the requestor, including the requestor's preferred language. Bayer et al discloses conducting surveys over the internet to multiple users in multiple countries in different languages (column 2, lines 9-12 and figure 1). Further, Bayer discloses enabling a voter or other registrant to register with system 10 in their preferred language (column 5, lines 53-58). Both Fuerst and Bayer et al are concerned with surveying via the internet, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the requestor's preferred language in Fuerst, as seen in Bayer, making the Fuerst system more flexible and robust, by allowing the use of multiple languages.

As per claim 19, Fuerst discloses the information includes the national site through which the requestor is registered (web site address, including an airline site, column 10, lines 20-25).

As per claim 20, Fuerst discloses the information includes the requestor's place of residence (i.e., user country or city of origin for flight information, column 10, lines 25-28).

As per claim 22, Fuerst discloses a method of operating an online feedback forum (online customer feedback, column 2, lines 63-65) comprising: receiving a request from a first user to leave feedback about a second user, (customer requests to leave feedback about a company's product, column 2, lines 63-67); retrieving, independent of the first and second users (i.e., the customer service workgroup, which is independent of the company product, since the first user is not leaving feedback associated directly with the customer service workgroup, column 2, lines 63-67), a set of predefined feedback comments in a first language (e.g., english) and communicating the set of predefined feedback comments to the first user (i.e., scaled response, wherein the answer is selected from among a plurality of options, column 6, lines 38-41); and identifying a predefined feedback comment from the set of predefined feedback comments selected by the first user (i.e., upon receipt of the web page the user may answer the questions and the results are stored in table 600, column 7, lines 45-48).

Fuerst does not explicitly disclose the feedback is related to an online purchasing transaction occurred between the first and second users. Falk et al disclose point of sale (POS) 105 including on-line purchases (¶ 0022), wherein the Falk system generates questions and receives feedback related to the purchase (figure 2).

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Further Falk et al discloses generating customized questionnaires automatically (¶ 0042).

Neither Fuerst nor Falk et al disclose communicating the predefined feedback comment to a requesting user in a second language. Bayer et al discloses conducting surveys over the internet to multiple users in multiple countries in different languages (column 2, lines 9-12 and figure 1). Fuerst, Falk et al, and Bayer are concerned with surveying via the Internet in order to sample and collect feedback from users in an on-line environment, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include feedback comments that relate to an online purchasing transaction and communicating feedback in a second language in Fuerst, as seen Falk et al and Bayer, respectively, thereby providing effective feedback to the customer service work group in Fuerst, who is interested in feedback on the company's products (see Fuerst column 2, lines 63-67), while making the system more flexible by allowing the use of multiple languages.

As per claim 23, Fuerst discloses the requesting user receives the predefined feedback comment after selecting an appropriate link on his display (i.e., creator selects the desired survey, column 8, lines 1-6).

As per claims 24 and 25, Fuerst does not disclose upon identification of the predefined feedback comment, identifying a predefined feedback response to the predefined feedback comment from a set of predefined feedback responses as having been selected by the second user, the set of predefined feedback responses

having been retrieved and communicated to second user in the second language, and the set of predefined feedback responses communicated to the second user is based upon the content of the predefined feedback comment. Bayer et al discloses conducting surveys over the internet to multiple users in multiple countries in different languages (column 2, lines 9-12 and figure 1). Further, Bayer et al discloses the network server 12 validating the answers of the incoming registration data, wherein the network server will send an error message (i.e., response) if the answers (i.e., comments) are not valid. In addition, each answered response is added to a new record of the registration data table, including the language of the user, wherein an e-mail confirmation message (i.e., response) is sent (column 30, lines 16-42). Both Fuerst and Bayer et al are concerned with surveying via the internet, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include responses to the comments in a second language in Fuerst, as seen in Bayer, making the Fuerst system more flexible and robust, by allowing communication between users.

As per claims 27 and 29, Fuerst does not disclose the first language is based upon information about the first user and the information is the registered address of the first user. Bayer discloses enabling a voter or other registrant to register with system 10 in their preferred language (column 5, lines 53-58) and user registration information including name, credit card, and address information (column 1, lines 51-55). Both Fuerst and Bayer et al are concerned with surveying via the internet, therefore it would have been obvious to one having ordinary skill in the art at the



time the invention was made to include the users preferred language and address information in Fuerst, as seen in Bayer, making the Fuerst system more flexible and robust, by allowing the use of multiple languages.

As per claim 28, Fuerst discloses the information is the national site at which the first user is registered (web site address, including an airline site, column 10, lines 20-25).

Claims 30-36 are disclosed by Fuerst, as seen in the above rejections.

As per claims 51 and 55, Fuerst does not disclose the plurality of predefined feedback comments are stored in a plurality of language translations. Bayer et al discloses conducting surveys over the internet to multiple users in multiple countries in different languages (column 2, lines 9-12 and figure 1). Both Fuerst and Bayer et al are concerned with surveying via the internet, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a plurality of languages in Fuerst, as seen in Bayer, making the Fuerst system more flexible and robust.

As per claim 52, Fuerst does not disclose directories of predefined feedback responses to the plurality of predefined feedback comments, each predefined feedback response of the plurality of predefined feedback responses associated with each predefined feedback comment with which the predefined feedback response relates. Bayer et al discloses the network server 12 validating the answers of the incoming registration data, wherein the network server will send an error message (i.e., response) if the answers (i.e., comments) are not valid. Further, each

answered response is added to a new record of the registration data table, including the language of the user, wherein an e-mail confirmation message (i.e., response) is sent (column 30, lines 16-42). Both Fuerst and Bayer et al are concerned with surveying via the internet, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include responses to the comments in Fuerst, as seen in Bayer, making the Fuerst system more flexible and robust, by allowing communication between users.

As per claim 56 Fuerst does not disclose said processor operation to retrieve the selected predefined feedback comment includes the determination of what language translation of the selected predefined feedback comment to retrieve based on a language indicator stored in the record associated with the requestor. Bayer et al disclose each survey record in poll table 36 (column 8, lines 46-56), including the Lang ID indicator that defines each language (column 8, lines 1-3). Both Fuerst and Bayer et al are concerned with surveying via the internet, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a language indicator associated with each survey in Fuerst, as seen in Bayer, making the Fuerst system more flexible and robust.

Claim 73 is rejected based upon the rejection of claim 22, since it is the system claim corresponding to the method claim.

As per claims 74, 76, 77, 84, and 86 Fuerst discloses the entity is a second and third user and the server automatically providing the second user with the selected comment (i.e., a plurality of authorized users as determined by the creator/requestor,

wherein the user is automatically provided web page access via e-mail notification, column 7, lines 21-26).

As per claims 75 and 85 Fuerst discloses the entity is a good (company product, column 3, line 65).

As per claim 78 and 87 Fuerst discloses prior to the server providing the first user with the plurality of predefined comments, the server to receive a request from the first user to submit a comment pertaining to the entity (request by user computer 120 for retrieval of the web page survey is transmitted to computer 130, including server 174, column 7, lines 31-38).

As per claim 79 and 88 Fuerst discloses prior to the server providing the requestor with the selected comment, the server to receive a request from the requestor to receive the selected comment (creator computer 130 receives comments/answers across network communications link 106, column 7, lines 31-36).

As per claims 80-82 and 89-91, Fuerst does not disclose the server determining the first and second language, based upon identification information, a national domain suffix, and a selected default user preference, of the first user and the requestor, respectively. Bayer discloses enabling a voter or other registrant to register with system 10 in their preferred language (column 5, lines 53-58), a master language default (column 6, lines 40-46), and the domain name of the site for the registration (column 23, lines 42-45). Both Fuerst and Bayer et al are concerned with surveying via the internet, therefore it would have been obvious to one having

ordinary skill in the art at the time the invention was made to include determining the preferred language in Fuerst, as seen in Bayer, making the Fuerst system more flexible and robust, by allowing the use of multiple languages.

Claims 83 and 94 are rejected based upon the same rationale as the rejection of claim 22. Further, Fuerst discloses the entity being a company product (column 3, line 65), a first client machine 120, network link 106, and second client machine 130, used by the creator (column 7, lines 33-36).

Claims 92 and 93 are rejected based upon the rejection of claim 83, since they are the machine readable medium and system claims, corresponding to the method claim.

8. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuerst in view of Falk et al, in further view of Bayer et al, as applied to claim 22, in further view of Harrington et al (USPN 6,161,099).

As per claim 26, Fuerst discloses the predefined feedback comment is in relation to a transaction conducted by way of an auction conducted over a network.

Harrington et al disclose an auctioneer provided via a web site (figure 1) and a verification page 50, including a list of questions that must be answered (i.e., survey, column 8, lines 44-50). Both Fuerst and Harrington disclose interactive websites, including surveying users, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the online

surveying in Fuerst facilitated by an auction, as seen in Harrington, thereby increasing the robustness and flexibility of the Fuerst system.

### ***Response to Arguments***

9. In the Remarks, with respect to Applicant's arguments concerning the rejections under 35 USC § 101, the Examiner respectfully submits that the phrase "technological arts" is synonymous with the phrase "useful arts" as it appears in Article I, Section 8 of the Constitution. *In re Waldbauem*, 173 USPQ 430 (CCPA 1972). And for a claim to be statutory it must be in the technological arts. *In re Musgrave*, 167 USPQ 280 (CCPA 1970) and *In re Johnston*, 183 USPQ 172 (CCPA 1974). The technological arts inquiry must focus on whether the claim subject matter is statutory. *In re Toma*, 197 USPQ 852 (CCPA 1978). *Toma* held "that the method of enabling a computer to translate natural languages is in the technological arts, i.e., it is a method of operating a machine." Further, the invention in the body of the claim must recite technology. If the invention in the body of the claim is not tied to technological art, environment, or machine, the claim is not statutory. *Ex parte Bowman*, 61 USPQ2d 1665, 1671 (BD. Pat. App. & Inter. 2001) (Unpublished). Also note MPEP 2106 IV 2(b). Further, in response to Applicant's discussion of *State Street*, the Examiner submits that technological arts under 35 USC § 101 was not discussed in the case because technology was included in the claims in that case.

Applicant also argues that the references fail to teach surveys that are generated and supplied independent of the users. The Examiner respectfully disagrees and

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submits that Fuerst discloses a customer service workgroup generating the survey, wherein the customer service workgroup is independent of the company product, since the first user is not leaving feedback associated directly with the customer service workgroup (column 2, lines 63-67). Instead the first user is leaving feedback about the company products. As such, the company products can indeed be construed independent from the customer service workgroup, since the customer service workgroup is not the entity upon which the feedback is based.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571) 272-6726. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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adb

August 1, 2005

  
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